

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

LATCHMI RAWATIRAMAN,

Plaintiff,

v.

**TYSON FOODS, INC., WAL-MART
ASSOCIATES, INC., AND WAL-MART
STORES OF TEXAS, LLC,
INDIVIDUALLY,**

Defendant.

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**CIVIL NO. 4:13-cv-1818
JURY**

DEFENDANT TYSON FOODS, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1132, 28 U.S.C. § 1441, Federal Rule of Civil Procedure 81, and Local Rule 81, Defendant Tyson Foods, Inc. ("Tyson"), hereby removes to this Court, the state court action described in Paragraph 1 below. Pursuant to 28 U.S.C. § 1446(a), Tyson sets forth the following "short and plain statement of the grounds for removal."

**I.
THE REMOVED CASE**

1. The removed case is a civil action filed with the 113th Judicial District Court of Harris County, Texas, on or about May 20, 2013, styled *Latchmi Rawatiraman v. Tyson Foods, Inc., Wal-Mart Associates, Inc., and Wal-Mart Stores of Texas, LLC, Individually*, Cause No. 2013-29808. The case arises from an alleged on-the-job injury incurred by Plaintiff, Latchmi Rawatiraman ("Rawatiraman"), while employed by Wal-Mart Stores of Texas, LLC.

**II.
DOCUMENTS FROM THE REMOVED ACTION**

2. Pursuant to Local Rule 81 and 28 U.S.C. 1446(a), Tyson attaches the following

documents to this Notice of Removal:

- (1) All executed process in the case;
- (2) Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
- (3) All orders signed by the state judge;
- (4) The docket sheet; and
- (5) A list of all counsel of record, including addresses, telephone numbers and parties presented.

These documents are attached to this Notice of Removal as ***Exhibit A***.

III. REMOVAL PROCEDURE

3. Except as otherwise expressly provided by Act of Congress, any civil action brought in a State Court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the place where the action is pending. 28 U.S.C. § 1441. The Houston Division of the Southern District Court of Texas is the United States district and division embracing Harris County, Texas, the county in which the State Court Action is pending.

4. Tyson was served with a copy of Plaintiff's Original Petition and Request for Disclosure ("Petition") on May 22, 2013, through its registered agent. Therefore, this Notice of Removal is filed within the time limits specified in 28 U.S.C. § 1446(b).

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings and orders in the State Court Action as of the date of this pleading are attached hereto as ***Exhibit A*** and incorporated herein for all purposes.

6. Tyson will promptly give all parties written notice of the filing of this Notice of Removal and will promptly file a copy of this Notice of Removal with the Clerk of the 113th

Judicial District Court of Harris County, Texas, where the action is currently pending.

IV.
VENUE IS PROPER

7. The United States District Court for the Southern District of Texas is the proper venue for removal of the state court action pursuant to 28 U.S.C. § 1441(a) because the 113th Judicial District Court of Harris County, Texas, is located within the jurisdiction of the United States District Court for the Southern District of Texas, Houston Division.

V.
DIVERSITY OF CITIZENSHIP EXISTS

8. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

9. As admitted in her Petition, Rawatiraman "is an individual currently residing in New York State."¹

10. Tyson is a foreign corporation formed under the laws of Delaware. Tyson's primary place of business is Springdale, Washington County, Arkansas. Pursuant to 28 U.S.C. § 1332(c)(1), Tyson is a not a citizen of the State of Texas.

11. Wal-Mart Associates, Inc., is a foreign corporation formed under the laws of Delaware. Wal-Mart Associates, Inc.'s primary place of business is Bentonville, Benton County, Arkansas. Pursuant to 28 U.S.C. § 1332(c)(1), Wal-Mart Associates, Inc., is a not a citizen of the State of Texas.

12. Wal-Mart Stores of Texas, LLC, is a foreign corporation formed under the laws of Delaware. Wal-Mart Stores of Texas, LLC's primary place of business is Bentonville, Benton County, Arkansas. Pursuant to 28 U.S.C. § 1332(c)(1), Wal-Mart Stores of Texas, LLC, is a not

a citizen of the State of Texas.

13. Because Rawatiraman is a resident of the State of New York and none of the named Defendants are, complete diversity of citizenship exists pursuant to 28 U.S.C. § 1332.

VI.
THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

14. In her Petition, Rawartiraman specifically pleads that she is seeking "monetary relief over \$200,000.00 but not more than \$1,000,000.00"²

15. Based on the aforementioned facts, the current state court action may be removed to this Court by Tyson in accordance with the provisions of 28 U.S.C. § 1441(a) because: (i) this action is a civil action pending within the jurisdiction of the United States District Court for the Southern District of Texas; (ii) this action is between citizens of different states; and (iii) the amount in controversy will exceed \$75,000, exclusive of interest and costs.

VII.
CONSENT OF ALL DEFENDANTS EXISTS

16. Pursuant to 28 U.S.C. § 1446(b)(1), Tyson has obtained the consent of all Defendants who have been properly joined to the removal of this matter to this Court. A separate Consent to Removal will be filed by the other properly joined Defendants.

VIII.
FILING OF REMOVAL PAPERS

17. Pursuant to 28 U.S.C. § 1446(d), Tyson is providing written notice of the filing of this Notice of Removal to all counsel of record and is filing a copy of this Notice with the Clerk of the 113th Judicial District Court of Harris County, Texas, in which this action was originally commenced.

¹ See Pl. Orig. Pet. at ¶ 2.

² *Id.* at ¶ 6.

IX.
CONCLUSION

18. Defendant, Tyson Foods, Inc., hereby removes the above-captioned action from the 113th Judicial District of Harris County Texas, and requests that further proceedings be conducted in the United States District Court for the Southern District of Texas, Houston Division, as provided by law.

Respectfully submitted,

KANE RUSSELL COLEMAN & LOGAN PC

By: s/ Zach T. Mayer
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**ATTORNEYS FOR DEFENDANT
TYSON FOODS, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of June, 2013, a true and correct copy of the foregoing has been forward to all counsel of record, as follows.

VIA ECF AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael A. Zimmerman
Zimmerman, Zimmerman, Cotner &
Lejeune, PC
PO Box 88
Waco, Texas 76703

VIA ECF AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Willie Ben Daw, III
Daw & Ray, L.L.P.
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Houston, Texas 77057

s/ Zach T. Mayer

Zach T. Mayer